

1 Herbert Hafif, Bar No. 27311
2 Greg K. Hafif, Bar No. 149515
3 Michael G. Dawson, Bar No. 150385
4 **LAW OFFICES OF HERBERT HAFIF, APC**
5 269 West Bonita Avenue
6 Claremont, California 91711-4784
7 (909) 624-1671; Fax (909) 625-7772

5 Steven L. Miller, Bar No. 106023
16133 Ventura Blvd., Suite 1200
6 Encino, California 91436
(818) 986-8900; Fax (818) 990-7900

8 Scott A. Miller, Bar No. 230322
LAW OFFICES OF SCOTT A. MILLER, APC
9 16133 Ventura Blvd., Suite 1200
Encino, California 91436
(818) 788-8081; Fax (818) 788-8080

10 Attorneys for Plaintiff
11 DOLORES A. ARREGUIN, for
12 herself and other members
of the general public similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

17 DOLORES A. ARREGUIN, for herself
18 and other members of the general public
similarly situated.

CASE NO. C 07-06026 MHP
[Filed: November 29, 2007]

[Assigned for all Purposes to:
Honorable Judge Marilyn H. Patel]

20 Plaintiffs,

**PLAINTIFF'S SUPPLEMENTAL
OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS FOR
IMPROPER VENUE, F.R.C.P.
RULE 12(b)(3)**

21 | V.

22 GLOBAL EQUITY LENDING, INC., a
23 Georgia Corporation; and DOES 1
through 10, Inclusive.

Date : March 3, 2008
Time : 2:00 p.m.
Place : Courtroom 15

24 Defendants.

Plaintiff, Dolores A. Arreguin, on behalf of herself and all others similarly situated, hereby files her supplemental opposition to Defendant, Global Equity Lending, Inc.'s, Motion to Dismiss for Improper Venue.

1 **I.**2 INTRODUCTION

3 The Court should deny Global's Motion to Dismiss for Improper Venue
 4 because:

- 5 • Plaintiff has exhausted her administrative remedies under the Private
 6 Attorney General Act ("PAGA") and can now sue for civil penalties
 7 under Labor Code section 2699.

8 **II.**9 RELEVANT FACTS

10 On February 8, 2008, Plaintiff received a letter from Labor & Workforce
 11 Development Agency indicating that Plaintiff had exhausted her administrative
 12 remedies under PAGA, which allowed her to sue for civil penalties under Labor Code
 13 Section 2699. See Exhibit "1". This letter was received after the opposition was
 14 prepared and could not be included in that pleading. Declaration of Michael Dawson,
 15 ¶¶ 1-2.

16 **III.**17 ARGUMENT18 **D. THE FORUM SELECTION CLAUSE SHOULD NOT BE ENFORCED
 19 BECAUSE IT IS UNREASONABLE AND UNJUST.**20 **4. IT WOULD BE UNREASONABLE AND UNCONSCIONABLE TO
 21 FORCE THE PUTATIVE CLASS MEMBERS TO LITIGATE
 22 THEIR CLAIMS IN GEORGIA.**

23 Now that Plaintiff has exhausted her administrative remedies, and can seek
 24 civil penalties under Labor Code section 2699 for both herself and the class, it would
 25 be unreasonable and unconscionable to transfer the case to Georgia. Plaintiff and the
 26 class have a vested interest in receiving the benefits under the California Labor Code,
 27 including receiving civil penalties, attorneys' fees and costs under Labor Code
 28 section 2699. Therefore, to avoid a forfeiture of these important labor rights, this

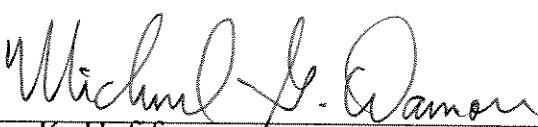
1 Court should keep the case in California.

2 **E. CONCLUSION**

3 For all of the reasons stated herein and in the initial Opposition filed, the Court
4 should deny Global's Motion to Dismiss for Improper Venue.

5
6 DATED: February 10, 2008

LAW OFFICES OF HERBERT HAFIF,
APC

7
8 By: 
9
10 for Greg K. Hafif
11 Attorneys for Plaintiff
12 DOLORES A. ARREGUIN, for
13 herself and other members
14 of the general public similarly situated

15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **DECLARATION OF MICHAEL DAWSON**

2 I am one of the attorneys at the Law Offices of Herbert Hafif representing the
 3 Plaintiff Dolores Arreguin in this lawsuit. The facts contained herein are based on
 4 my own personal knowledge. If called as a witness, I could and would testify to the
 5 following:

6 1. On or about February 15, 2008, our office received a letter from co-
 7 counsel, Scott A. Miller, Esq., who in turn received the letter from the California
 8 Labor & Workforce Development Agency. Attached hereto as Exhibit "1" is a copy
 9 of the letter dated February 8, 2008. The letter indicates that Plaintiff Dolores
 10 Arreguin has exhausted her administrative remedies and now has a right to sue for
 11 civil penalties under Labor Code section 2699.

12 2. The letter was received by our law office after our opposition had been
 13 prepared and could not be included in that brief.

14 I declare under penalty of perjury, pursuant to the laws of the United States and
 15 the State of California, that the foregoing is true and correct.

16 EXECUTED this 20th day of February 2008, at Claremont, California.

17
 18
 19
 20


21 Michael G. Dawson, Esq.

EXHIBIT 1



Victorville

Agricultural
Labor
Relations

California
Unemployment
Insurance
Appeals
Board

California
Workforce
Investment
Board

Department of
Industrial
Relations

Economic
Strategy
Panel

Employment
Development
Department

Employment
Training
Panel

Labor & Workforce Development Agency

Date February 8, 2008

Law Offices of Scott A. Miller
16133 Ventura Blvd., Suite 1200
Encino, CA 91436

Global Equity Lending, Inc.
CT Corporation System – Agent for Service of Process
818 West Seventh St.
Los Angeles, CA 90017

World Leadership Group
James F. Tenney – Registered Agent
200 Galleria Pkwy NW #500
Atlanta, GA 30339

Re: LWDA No: 3096
Employer: Global Equity Lending, Inc., World Leadership Group
Employee: Dolores A. Arreguin

Dear Employer and Representative of the Employee:

This is to inform you that the Labor and Workforce Development Agency (LWDA) received your notice of alleged Labor Code violations pursuant to Labor Code Section 2699, postmarked January 26, 2008 and after review, does not intend to investigate the allegations.

As a reminder to you, the provisions of Labor Code Section 2699(i) provides that "...civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the LWDA for enforcement of labor laws and education of employers and employees about their rights and responsibilities under this code". Labor Code Section 2699(l) specifies "[T]he superior court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part".

Consequently you must advise us of the results of the litigation, and forward a copy of the court judgment or the court-approved settlement agreement.

Sincerely,

Robert A. Jones

Robert A. Jones
Deputy Secretary

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 269 West Bonita Avenue, Claremont, CA 91711.

On **February 20, 2008**, I served the foregoing document described as: **PLAINTIFF'S SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR IMPROPER VENUE, F.R.C.P. RULE 12(b)(3)**

- [] by placing the true copies thereof enclosed in sealed envelopes addressed as follows:
- [X] by placing [] the original [X] a true copy thereof enclosed in sealed envelopes addressed as follows:
- [X] Via Facsimile.
- [] Via Overnight Delivery.

[SEE ATTACHED SERVICE LIST]

[X] I deposited each envelope in the mail at Claremont, California.¹ The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Post Office on that same day with postage thereon fully prepaid at Claremont, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[] As follows: I am "readily familiar" with the firm's practice for delivering overnight envelopes or packages to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served, at the address as last given by that person on any document filed in the cause and served on the party making service.

[] (State or Federal) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[X] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **February 20, 2008**, at Claremont, California.

Gwendolyn Simmons
Type or Print Name

Signature



bag.

